

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 09-CV-12299-DT

JOSEPH L. ZAJAC,

Defendant.

**ORDER GRANTING PLAINTIFF'S MOTION TO AMEND COMPLAINT
AND SETTING DEADLINE TO FILE AMENDED COMPLAINT**

Pending before the court is a motion to amend the complaint, filed by Plaintiff United States of America, on January 6, 2010. No response has been filed, and the time for filing a response has passed. The court will grant Plaintiff's motion.

The decision whether to grant leave to amend the pleadings is governed by Federal Rule of Civil Procedure 15. Rule 15 provides that, at this stage in the litigation, "a party may amend its pleading only with the opposing party's written consent or the court's leave. The court should freely give leave when justice so requires." Fed. R. Civ. P. 15(a)(2). "In the decision whether to permit an amendment, some of the factors which may be considered by the trial court are undue 'delay in filing, lack of notice to the opposing party, bad faith by the moving party, repeated failure to cure deficiencies by previous amendments, undue prejudice to the opposing party, and futility of amendment.'" *Gen. Elec. Co. v. Sargent & Lundy*, 916 F.2d 1119, 1130 (6th Cir. 1990) (citing *Hageman v. Signal L.P. Gas, Inc.*, 486 F.2d 479, 484 (6th Cir. 1973)).

Plaintiff initiated this action on June 15, 2009, to reduce Defendant Joseph Zajac's tax assessments to judgment. Plaintiff's complaint seeks a judgment for the tax liability owed for tax years 1995 through 2000, and 2004 through 2007. On November 9, 2009, the court issued a scheduling order pursuant to Federal Rule of Civil Procedure 16. The scheduling order set February 1, 2010, as the final day to seek amendments. On January 6, 2010, well before this deadline, Plaintiff filed its motion to amend, in which it seeks to amend the complaint to seek a judgment against Defendant for an additional tax year, 2003. Having reviewed the motion, the court finds good cause for Plaintiff to amend. Adding an additional year to the ten years already included will not unduly burden Defendant and will instead streamline these proceedings. In the absence of any opposition by Defendant, the court does not find any reason to deny the motion. Accordingly,

IT IS ORDERED that Plaintiff's motion to amend [Dkt # 12] is GRANTED.

Plaintiff shall file its amended complaint by **February 19, 2010**.

S/Robert H. Cleland

ROBERT H. CLELAND

UNITED STATES DISTRICT JUDGE

Dated: February 10, 2010

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, February 10, 2010, by electronic and/or ordinary mail.

S/Lisa Wagner

Case Manager and Deputy Clerk

(313) 234-5522